

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

WOODROW FLEMING,

Plaintiff,

-against-

THE CITY OF NEW YORK, *et al.*,

Defendants.

19-CV-10278 (CM)

ORDER

COLLEEN McMAHON, Chief United States District Judge:

Plaintiff filed this action *pro se*. By order dated December 2, 2019, the Court directed Plaintiff to submit an updated *in forma pauperis* (IFP) application. After Plaintiff failed to submit an updated IFP application, on January 13, 2020, the Court dismissed the complaint; the Clerk of Court entered judgment on January 14, 2020. (ECF Nos. 5-6.)

On March 2, 2020, the Court received Plaintiff's motion for an extension of time to file a notice of appeal, and the notice of appeal. For the following reasons, Plaintiff's request for an extension of time to file a notice of appeal is granted.

**DISCUSSION**

Under Fed. R. App. P. 4(a)(1)(A), a notice of appeal in a civil case must be filed within thirty days after entry of judgment. The district court may extend the time to file a notice of appeal, however, if a plaintiff files a motion within thirty days of the expiration of the time to file notice of appeal, and if the moving party shows excusable neglect or good cause for untimely filing. *See* Fed. R. App. P. 4(a)(5)(A).

Plaintiff submitted his request for an extension of time to file notice of appeal within thirty days after the time to file his notice of appeal expired. In his motion, he states that his only income is from "DSS." Although Plaintiff does not state why he failed to comply with the order

directing him to file an updated IFP application, he does state facts suggesting that had he done so, the Court would have granted his request.<sup>1</sup> The Court therefore grants Plaintiff's motion for an extension of time to file his notice of appeal.

### CONCLUSION

The Clerk of Court is directed to mail a copy of this order to Plaintiff and note service on the docket. The Court grants Plaintiff's motion for an extension of time to file a notice of appeal. (ECF No. 13.) Plaintiff is directed to submit a notice of appeal within fifteen days of the date of this order. A notice of appeal form is attached to this order.

The Court certifies under 28 U.S.C. § 1915(a)(3) that any appeal from this order would not be taken in good faith, and therefore *in forma pauperis* status is denied for the purpose of an appeal. *See Coppedge v. United States*, 369 U.S. 438, 444-45 (1962) (holding that an appellant demonstrates good faith when he seeks review of a nonfrivolous issue).

SO ORDERED.

Dated: April 28, 2020  
New York, New York



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COLLEEN McMAHON  
Chief United States District Judge

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<sup>1</sup> If Plaintiff still wants to proceed with this action, he may move to withdraw his appeal, and then file a motion to reopen this action and include his updated IFP application.